

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 16584 of 2002

Between:

1. B.Sethu Madhava Rao, S/O. B.Ramachander Rao (late), aged about 52 years, R/o.H.No.15-4-554, Osmanshahi, Afzalgunj, Hyderabad.
2. B.Narasing Rao, S/o.late B.Ramachander Rao, aged about 45 years, R/o.H.No.15-5-554, Osmanshahi, Afzalgunj, Hyderabad.

..... PETITIONERS

AND

1. The Government of A.P., rep., by its Secretary, Prohibition & Excise Department, Secretariat Buildings, Hyderabad.
2. The Commissioner, Prohibition & Excise Department, Hyderabad.
3. The Superintendent, Prohibition & Excise Department, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in not refunding the Health Permit Fee proportionate to the unused period as illegal, arbitrary and consequently direct the respondents to refund the Health Permit Fee proportionate to the unused period with interest at the rate of 18% from the date of abolition of policy.

Counsel for the Petitioner: MS.B.S.RADHIKA

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court made the following :

ORDER:

The petitioners were granted health permits to possess and use liquor for personal consumption. When there was a total prohibition in force in the State of A.P., subsequently, in the month of September 1995 the Government revised their policy withdrawing prohibition and imposed prohibition partially. Alleging that the petitioners have not availed the health permits for the concerned year from 03.07.1995 to 28.06.1996, they filed this writ petition seeking a direction to the respondents to refund proportionate fees they paid for health permits.

The grant of health permits is governed by the provisions of the A.P. Prohibition Act, 1995 and the Rules made therein. There is no provision in law giving a right to a holder of a health permit to seek refund of the amount in the event of such permit holder not utilizing the health permit. The petitioners have no right to maintain the writ petition. Therefore, there is no *prima facie* case in their favour nor balance of convenience.

In view of the above orders, nothing survives in the writ petition and therefore, the writ petition is dismissed. No costs.

(V.V.S.RAO, J)

05.07.2005

vs

To

1. The Secretary, Government of A.P., Prohibition & Excise Department, Secretariat Buildings, Hyderabad.
2. The Commissioner, Prohibition & Excise Department, Hyderabad.
3. The Superintendent, Prohibition & Excise Department, Hyderabad.
4. 2 CCs to the G.P for Prohibition & Excise, High Court of A.P., Hyderabad.
(OUT)
5. 2 CD copies.

